

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JEFFREY PAUL BARNARD,)	
)	
Plaintiff,)	
)	
v.)	1:16-cv-00276-JAW
)	
STATE OF MAINE, et al.,)	
)	
Defendants.)	

**ORDER AFFIRMING THE RECOMMENDED DECISIONS
OF THE MAGISTRATE JUDGE**

On June 3, 2016, Jeffrey Paul Barnard filed a complaint under 42 U.S.C. § 1983 against numerous state governmental entities and employees related to an alleged violation of his civil rights during a police standoff on May 31-June 1, 2014 in Ellsworth, Maine, during which Mr. Barnard was shot in the face. *Compl.* at 1–4 (ECF No. 1). Mr. Barnard included his wife Vicki Barnard as a party plaintiff, asserting damages on her behalf as well. *Id.* The Magistrate Judge screened the Complaint and on June 14, 2016, he recommended that the Complaint be dismissed against all Defendants except for Troy Bires. *Recommended Decision After Screening Compl. Pursuant to 28 U.S.C. §§ 1915(e), 1915A* at 1–6 (ECF No. 4) (*First Rec. Dec.*). However, the Magistrate Judge also conditioned his recommended dismissal on the possibility that Mr. Barnard could file an amended complaint within the time for filing an objection to the recommended decision. *Id.* at 5.

On August 1, 2016, Mr. Barnard moved to amend his complaint, *Mot. for Leave to File Am. Compl.* (ECF No. 11), and on August 19, 2016, the Magistrate Judge granted Mr. Barnard's motion to amend the complaint and ordered that it be filed. *Mem. of Decision Granting Mot. to Amend* (ECF No. 15). In the Amended Complaint, Mr. Barnard sought to reassert his claims against the same defendants that the Magistrate Judge had earlier recommended be dismissed, joined numerous additional defendants based on his 2014 encounter with law enforcement, and added a series of claims against another group of defendants at Somerset County Jail concerning the conditions of his confinement. *Am. Compl.* (ECF No. 16).

The Magistrate Judge issued a second recommended decision based on the newly-filed Amended Complaint, withdrawing his first recommended decision with respect to the claims asserted on Mr. Barnard's own behalf. *Mem. of Decision on Pl.'s Mot. to Amend; Recommended Decision After Review of Pl.'s Am. Compl.* at 8 (ECF No. 14) (*Second Rec. Dec.*). The Magistrate Judge maintained his recommendation that the Court dismiss the claim asserted on behalf of Vicki Barnard, who is not named as a plaintiff in the Amended Complaint, because Mr. Barnard may not act as his wife's attorney. *Id.* at 8; *see also First Rec. Dec.* at 4. The Magistrate Judge concluded that in the Amended Complaint, Mr. Barnard had stated a § 1983 excessive force claim "against Defendants Bires, Duff and Tokas." *Second Rec. Dec.* at 4. The Magistrate Judge also recommended that the Court dismiss Mr. Barnard's federal and state claims against the state of Maine, the Maine State Police, and state of Maine Attorney General Janet Mills, dismiss his federal claim against the municipal

defendants, and dismiss or sever his claims regarding the conditions of confinement at Somerset County Jail. *Id.* at 5–7. The Magistrate Judge concluded that Mr. Barnard had failed to state claims against Rob Angelo, Harold Page, Robert Williams, the Hancock County Sheriff, and Hancock County Deputies Campbell and Frost. *Id.* at 4–5.

After moving to extend the time to file objections to the second recommended decision and being granted that time, Mr. Barnard did not object to the second recommended decision. *Mot. for Continuance and Enlargement of Time* (ECF No. 19); *Order* (ECF No. 20); *Mot. for Continuance and Enlargement of Time* (ECF No. 21); *Order* (ECF No. 22); *Mot. for Continuance and Enlargement of Time* (ECF No. 23); *Order* (ECF No. 24). Mr. Barnard wrote a letter to the Court dated December 2, 2016, that he filed in this civil action on December 7, 2016, dealing with issues that had arisen in his then-pending criminal case, but Mr. Barnard did not file an objection to the second recommended decision. *Letter from Jeffrey Paul Barnard to Hon. John A. Woodcock, Jr.* (Dec. 2, 2016) (ECF No. 25).

1. No objection having been filed to the Magistrate Judge’s Recommended Decision filed June 14, 2016 (ECF No. 4), the Recommended Decision is hereby AFFIRMED in part.
2. No objection having been filed to the Magistrate Judge’s Recommended Decision filed August 19, 2016 (ECF No. 14), the Recommended Decision is hereby AFFIRMED.
3. It is further ORDERED that the claim Mr. Barnard attempted to assert on behalf of Vicki Barnard in his original Complaint be and hereby is DISMISSED.
4. It is further ORDERED that the claims in the Amended Complaint against the state of Maine, the Maine State Police, and Attorney General Janet

Mills, Harold Page, Rob Angelo, the City of Ellsworth, the Ellsworth Police Department, the City of Bangor, the Bangor Police Department, Robert Williams, the Hancock County Sheriff, and Deputies Campbell and Frost be and hereby are DISMISSED.

5. It is further ORDERED that the claims in the Amended Complaint against the Somerset County Defendants be and hereby are DISMISSED without prejudice.
6. The Court ORDERS service of the amended complaint upon Troy Bires, Scott Duff, and Barton Tokas.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 14th day of August, 2017